

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

AIMEE O'NEIL and M.O.,

Plaintiffs,

v.

5:09-CV-983
(GTS/GHL)

FLOYD WEENO PONZI, Owner of Deluxe Painting;
and MARY PONZI-FLETT, Oswego County
Legislator,

Defendants.

AIMEE O'NEIL;

Plaintiff,

v.

5:09-CV-985
(GTS/GHL)

FLOYD WEENO PONZI, Owner of Deluxe Painting;
and MARY PONZI-FLETT, Oswego County
Legislator,

Defendants.

APPEARANCES:

AIMEE O'NEIL
Plaintiff, *Pro Se*
P.O. Box 53
Minetto, NY 13115

HON. GLENN T. SUDDABY, United States District Judge

DECISION and ORDER

Currently before the Court in the above-captioned identical *pro se* civil rights actions, originally filed by Aimee O'Neill and “M.O.” against Floyd Weeno Ponzi and Mary Ponzi-Flett,¹ is the Report-Recommendation of United States Magistrate Judge George H. Lowe recommending that (1) Plaintiff “M.O.” be dismissed as a plaintiff from both actions due to her status as a minor, and (2) Plaintiff Aimee O'Neil be required to file a single Amended Complaint in both actions correcting the conclusory and speculative (and delusional) nature of the racketeering claims asserted in each action. (*See* Dkt. No. 5 in Both Actions.) Plaintiff has filed no Objections to the Report-Recommendation. (*See generally* Docket Sheets in Both Actions.) Instead, she has filed an Amended and Supplemental Complaint in both actions. (*See* Dkt. No. 6 in Both Actions.)²

Plaintiff’s Amended and Supplemental Complaint omits a claim on behalf of Plaintiff “M.O.” (*Id.*) As a result, Magistrate Judge Lowe’s Report-Recommendation might be considered moot to the extent that it recommended Plaintiff “M.O.” be dismissed as a plaintiff from both actions. However, the Court is mindful that Plaintiff Aimee O’Neill, who is an

¹ The Court notes that the docket sheet in Action 5:09-CV-983 lists Mary Ponzi-Flett, the Oswego County Legislature, and the County of Oswego as the Defendants in that action, while the docket sheet in Action 5:09-CV-985 lists Floyd Weeno Ponzi as the only Defendant in that action. After carefully reviewing the original Complaint, the Court finds that it asserts claims against two individuals and only two individuals: (1) Floyd Weeno Ponzi, who is the Owner of Deluxe Painting; and (2) Mary Ponzi-Flett, who is an Oswego County Legislator.

² The Court notes that, although the docket currently characterizes Plaintiff’s most recent pleading as an “Amended Complaint,” that pleading is, in actuality, an Amended *and* Supplemental Complaint, which adds certain allegations based on facts occurring since the filing of her original Complaint. (*See, e.g.*, Dkt. No. 6, at 2.) As a result, the Clerk’s Office is directed to amend the docket accordingly.

extremely litigious litigant, might well attempt to cause another claim to be asserted by Plaintiff "M.O." in this action. For this reason, the Court adopts this portion of Magistrate Judge Lowe's Report-Recommendation on the ground that it is not clearly erroneous. "M.O." may not proceed on his or her own behalf in either or both of the above-captioned actions.

Similarly free of clear error is Magistrate Judge Lowe's Report-Recommendation that Plaintiff Aimee O'Neil be required to file a single Amended Complaint in both actions correcting the conclusory and speculative (and delusional) nature of the racketeering claims asserted in each action. For this reason, the Court adopts this portion of Magistrate Judge Lowe's Report-Recommendation as well. Because Plaintiff has already filed an Amended and Supplemental Complaint, the file in Action 5:09-CV-983 is returned to Magistrate Judge Lowe for review of the Amended and Supplemental Complaint for compliance with the Federal Rules of Civil Procedure.³

Finally, because the Amended and Supplemental Complaint filed in the above-captioned actions assert the exact same claims and allegations by Plaintiff Aimee O'Neil against the exact same two Defendants,⁴ the Court terminates Action 5:09-CV-985 as duplicative of Action 5:09-CV-983.

³ The Court notes that a cursory comparison of Plaintiff's original Complaint and her Amended and Supplemental Complaint reveals that the latter appears to contain numerous claims, allegations, and deficiencies contained by the former. However, the Court will reserve decision with regard to Plaintiff's Amended and Supplemental Complaint, pending review of that pleading by Magistrate Judge Lowe.

⁴ The Court notes that, after carefully reviewing the Amended and Supplemental Complaint, the Court finds that it asserts claims against two individuals and only two individuals: (1) Floyd Weeno Ponzi, who is the Owner of Deluxe Painting; and (2) Mary Ponzi-Flett, who is an Oswego County Legislator.

ACCORDINGLY, it is

ORDERED that Magistrate Judge Lowe's Report-Recommendation (Dkt. No. 5 in Both Actions) is **ADOPTED** in its entirety; and it is further

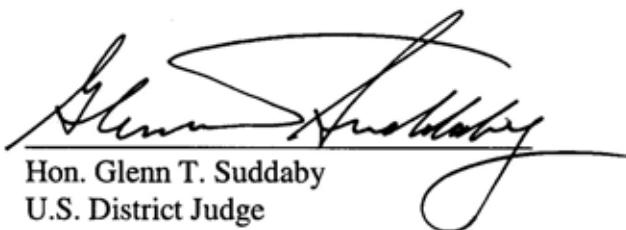
ORDERED that the Clerk's Office shall rename Dkt. No. 6 in Action 5:09-CV-983 as Plaintiff's "Amended and Supplemental Complaint"; and it is further

ORDERED that the file in Action 5:09-CV-983 to be returned to Magistrate Judge Lowe for review of the Amended and Supplemental Complaint (Dkt. No. 6) for compliance with the Federal Rules of Civil Procedure; and it is further

ORDERED that the Clerk's Office shall **TERMINATE** Action 5:09-CV-985 as it was opened in error and is duplicative of Action 5:09-CV-983; and it is further

ORDERED that the Clerk's Office shall correct the docket sheet in Action 5:09-CV-983 so that it reflects only the two Defendants identified in the amended and supplemental complaint: (1) Floyd Weeno Ponzi, with party text as "Owner of Deluxe Painting;" and (2) Mary Ponzi-Flett with party text as "Oswego County Legislator, County of Oswego." Defendant Oswego County Legislature and Defendant County of Oswego were entered as defendants in error and the Clerk is directed to delete these defendants from the docket.

Dated: October 22, 2009
Syracuse, New York



Hon. Glenn T. Suddaby
U.S. District Judge